

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL NO. 1456

THIS DOCUMENT RELATES TO:  
  
TRACK 2 SETTLEMENT

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**CLASS PLAINTIFFS' NOTICE OF STATUS RELATED TO  
FINAL APPROVAL OF THE TRACK TWO SETTLEMENT**

Pursuant to the Court's Order of December 15, 2009 [Docket No. 6760] Class Counsel submit this notice to update the Court on the status of notice to consumers in Classes 1 and 3.

Class 3

In its filing of December 4, 2009 [Docket No. 6736] Class Counsel reported that the Court approved notice to cash payors, consisting of numerous 30 second television advertisements and a campaign of internet banner ads displayed on targeted websites would run through December 14, 2009 and was expected to substantially increase consumer response when complete.

These ads concluded as planned on December 14, 2009 and response was excellent. At the time of Class Counsel's last filing there had been approximately 70,000 unique visits to the Track Two Settlement website, there have now been more than 370,000 unique visits to the website. At the time of the last filing there had been approximately 9,000 requests for Class 3 claims notice. There have now been over 82,000 such requests. To date the claims administrator

has received more than 20,000 claims filed by Class 3 consumers alone.

Class 1

In Class Plaintiffs' last update to the Court on December 4, 2009 Class Counsel sought, and the Court granted a suspension of the dates for submission of Class 1 claims set forth in its October 13, 2009 Order. The December status report set forth the reasons for delay in obtaining Class 1 consumer data from the CMS vendor. The CMS vendor continues to experience issues in providing the data but continues to cooperate with counsel in attempting to resolve these issues.

The CMS vendor anticipates production of all relevant data regarding Class 1 in mid-March 2010. Class counsel, upon receipt of and review of such data by the Claims Administrator, will notify the Court and suggest, with consultation and consent of Defense counsel, an appropriate schedule for all events related to Class1 claims, including a date for a Final Approval hearing related to the Track Two Settlement. If the CMS vendor's current estimate holds true, Class Counsel anticipate requesting a date in mid-May, 2010 for a Final Approval Hearing. If further significant delays are encountered, Class Counsel may request that the CMS Vendor provide the Court with the reasons for such delay and provide a Court endorsed date certain for the production.

DATED: January 28, 2010.

By /s/ Steve W. Berman  
Thomas M. Sobol (BBO#471770)  
Edward Notargiacomo (BBO#567636)  
Hagens Berman Sobol Shapiro LLP  
55 Cambridge Parkway, Suite 301  
Cambridge, MA 02142  
Telephone: (617) 482-3700  
Facsimile: (617) 482-3003

**LIAISON COUNSEL**

Steve W. Berman  
Sean R. Matt  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

Jeffrey Kodroff  
John Macoretta  
Spector, Roseman Kodroff & Willis, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300  
Facsimile: (215) 496-6611

Kenneth A. Wexler  
Jennifer Fountain Connolly  
Wexler Wallace LLP  
55 W. Monroe, Suite 3300  
Chicago, IL 60603  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022

Marc H. Edelson  
Hoffman & Edelson LLC  
45 West Court Street  
Doylestown, PA 18901  
Telephone: (215) 230-8043  
Facsimile: (215) 230-8735

**CLASS COUNSEL**

### **CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, CLASS PLAINTIFFS' NOTICE OF STATUS RELATED TO FINAL APPROVAL OF THE TRACK TWO SETTLEMENT, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on January 28, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

**/s/ Steve W. Berman**

Steve W. Berman